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AGREEMENT

RELATING TO TRANSFER OF THE PORT OF SAN FRANCISCO

FROM THE STATE OF CALIFORNIA TO

THE CITY AND COUNTY OF SAN FRANCISCO

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Agreement relating to
transfer of the Port of
1969]

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AGREEMENT

Pursuant to the provisions of the Statutes of 1968, Chapter 1333, this agreement is made and entered into in uadruplicate this 24th day of January, 1969, by and between the City and County of San Francisco, a municipal corporation of the State of California, hereinafter referred to as "the City" and the Director of Finance of the State of California acting for and on behalf of the State of California, and assisted by the Secretary for Agriculture and Services of the State of California and the San Francisco Port Authority, an agency of the State of California, negotiations for the form of the Agreement having been concluded by October 21, 1968, in compliance with the terms of Section 21 of said chapter.

Pursuant to the provisions of the Statutes of 1968, Chapter 1333, the parties hereto agree as follows:

I. TIME OF TRANSFER

The time of transfer of the property described in Section 2 of the aforesaid Statutes of 1968, Chapter 1333, hereinafter referred to as "the Act," as set forth in Section 10 of the Act is when the voters of the City and County of San Francisco have assented to the transfer under the terms and conditions specified, and the results of the election have been certified to according to law. Section 9 of the Act provides, however, that as express conditions to the transfer the City and County must agree to

specific conditions, all as more particularly set forth in the Act. One of said conditions is the negotiation and approval of this agreement by both parties. The Act also requires that certain charter amendments be enacted as conditions of the transfer. Those charter amendments do not take effect until approved by the Legislature of the State of California meeting in regular session. The necessary charter amendments have been approved by the Board of Supervisors of the City and County of San Francisco and will be on the ballot on November 5, 1968.

On November 5, 1968, there will be submitted also to the voters a proposition to approve the transfer of the Harbor of San Francisco from the State of California to the City and County of San Francisco under the terms and conditions set forth in Statutes of 1968, Chapter 1333 and to assume by agreement to indemnify, defend, and hold harmless the State of California with regard to all outstanding bonded indebtedness incurred by the State of California for San Francisco Harbor improvements and to assume the liabilities, obligations and duties of the San Francisco Port Authority under all other outstanding contracts, leases, franchises and agreements, all as more particularly set forth in Ordinance No. 237-68 adopted by the Board of Supervisors on the 10th day of September, 1968, approved by the Mayor on the 13th day of September, 1968.

In order to avoid conflict and ambiguity and in the

Interests of the City and County of San Francisco and the State of California, the parties agree that the vote on the propositions set forth hereinabove will not be certified by the Registrar of Voters if favorable in the required majorities unless or until the Legislature of the State of California is meeting in session so that it may act promptly on such measures. In the event the vote is not favorable in the required majorities in the election of November 5, 1968, the parties will amend this agreement to provide a new date of transfer after such later favorable vote and transfer will not take effect until this agreement is amended. In the event, however, that the election is favorable in the required majorities, the transfer will take effect on the 7th day of February, 1969, providing this agreement has been entered into and approved by the parties, and providing there has been approval of the charter amendments by the Legislature. If either of these provisos has not been completed, the transfer will take effect when both provisos are completed. The time for transfer of funds shall, for accounting purposes, be the date of transfer set forth herein.

II. TRANSFER OF PROPERTY

TRANSFER OF REAL PROPERTY: The real property which is transferred under the Act is the real property under the jurisdiction and control of the San Francisco Port Authority as of the date of transfer, subject to certain restrictions and exceptions, all as more particularly set forth in the Act. The real property so transferred lies within the perimeter description set forth in Harbors and Navigation Code section 1770 and those additional lands which are the properties of the State of California set forth in Harbors and Navigation Code section 1772. In addition to the property included within the aforementioned code sections, there are specific acquisitions as shown in Book B 192, page 384, Recorder's office City and County of San Francisco, recorded November 13, 1967. Within three years from August 14, 1968, the effective date of the Act, the City and County of San Francisco shall at the cost of the Harbor Commission of the City and County of San Francisco have the State Lands Commission survey and monument the transferred lands and record a description and plat thereof in the office of the Recorder of the City and County of San Francisco. This requirement need not, however, be complied with unless or until the transfer takes effect. A map depicting the real property transferred is appended hereto as Exhibit "A" for the convenience of the parties, except that said map does not purport to show all the property within the perimeter description which is not included in the transfer. Some of the property within the perimeter is in ownership other than the

State of California or is owned by or under the jurisdiction or control of the departments or agencies set forth in Section 2 of the Act. In addition, said exhibit cannot accurately depict the real property covered under Section 1772 until the survey is completed by the State Lands Commission. When the aforesaid survey is completed the description contained therein will be deemed to be a part of this agreement except that either party reserves the right to object to the description. If agreement cannot be reached between the parties, each party reserves the right to have the matter determined by a court or courts of competent jurisdiction. In that event when the final court's determination is finally concluded, that determination will become a part of this agreement.

PERSONAL PROPERTY OTHER THAN FUNDS: Under Section 2 of the Act all personal property owned or controlled by the State of California and used in connection with the operation and maintenance of the harbor is transferred pursuant to the terms of the Act. The personal property so transferred is listed in the office of the Comptroller of the San Francisco Port Authority on an index listing called "Data Processing Depreciation Listing." The State takes no responsibility for any property which may not be located at the time of transfer, but so far as the State is aware, all of the property so listed is in use and can be located and all this property will be transferred pursuant to the terms

of the Act.

TRANSFER OF FUNDS: The funds which will be transferred from the State to the City pursuant to the Act are presently on deposit with the State Treasurer of the State of California and accounted for in the office of the State Controller, Division of Accounting Records. Those funds consist of the following: San Francisco Harbor Improvement Fund; San Francisco Sea Wall Fund No. 4; San Francisco Sea Wall No. 5; Harbor Bond Sinking Fund; India Basin Sinking Fund; San Francisco Sea Wall Sinking Fund No. 2; San Francisco Sea Wall Sinking Fund No. 3; San Francisco Sea Wall Sinking Fund No. 4; and Special Deposit.

Monies are presently due those funds from the Surplus Monies Investment Fund. At the time of the transfer, monies in the Surplus Monies Investment Fund from each of the above funds will be transferred as of the date of transfer in accordance with the provisions of Section 1 of this agreement, and interest on those monies will be credited by the State in the same manner and to the same extent as it presently credits interest to the deposits of the funds when the San Francisco Port Authority requests transfer back to the funds. San Francisco Harbor Improvement Fund is the fund provided for in Harbors and Navigation Code section 1706. San Francisco Sea Wall Fund No. 4 is the construction fund authorized by Chapter 835 of the Statutes of 1929. San Francisco Sea Wall Fund No. 5 is the construction fund authorized by Harbors and Navigation Code section 3902. Harbor Bond Sinking Fund is the fund for redemption of bonds and payment of interest pursuant to Harbors and Navigation Code section 3902.

India Basin Sinking Fund is the fund for the redemption of bonds and payment of interest pursuant to Statutes of 1909, Chapter 407. San Francisco Sea Wall Sinking Fund No. 2 is the fund for redemption of bonds and payment of interest pursuant to Statutes of 1909, Chapter 320. San Francisco Sea Wall Sinking Fund No. 3 is the fund for redemption of bonds and payment of interest pursuant to Statutes of 1913, Chapter 602. San Francisco Sea Wall Sinking Fund No. 4 is the fund for redemption of bonds and payment of interest pursuant to Statutes of 1929, Chapter 835. The fund designated Special Deposit is a trust fund in which monies which are not property of the State are deposited prior to refund or repayment to other persons. Such fund will be taken by the City subject to repayment to the true owners. In the event the funds are not repaid and vest in the City, such funds shall be credited by the City to the San Francisco Harbor Improvement Fund. Upon the transfer of these funds from the State to the City, the City shall set up funds identical with the funds hereinabove designated. Deposits shall be made into these funds in the same manner and to the same extent as deposits are presently made and the funds shall be used for the same purposes as the funds are used by the State. This shall not preclude the City from setting up additional funds when and if that becomes necessary, nor shall it preclude the City from setting up additional accounts in the funds when and if such accounts become

necessary. The additional funds may not, however, be set up except upon prior written notification to the Director of Finance. In the event the Director of Finance is of the opinion that the additional funds will affect the security of the funds now in existence or will otherwise adversely affect the interests of the Harbor or will adversely affect the accountability to the State pursuant to Section 8 of the Act, the Director of Finance may disapprove funds which are properly and reasonably set up for the repayment of bond issues authorized pursuant to Section 22 of the Act providing the monies available to the Harbr are sufficient to meet obligations to funds created prior in time and to meet current obligations and maintenance.

In addition to the funds enumerated above, it is agreed by the parties that any and all receivables, obligations, liquidated and unliquidated, and choses in action owing to the Authority at the time of the transfer are likewise transferred.

III. LIMITATIONS ON PROPERTY TRANSFERRED

The Act provides for the transfer of real property now owned by the State of California as more particularly set forth in said Act and in Section II hereof. The Act, however, contains limitations, exceptions and conditions. All of such provisions are hereby made a part of this agreement. It is the purpose of the parties in this section of the agreement to define and interpret the provisions of the Act which require such definition or interpretation.

The Act excepts and reserves to the State of California all subsurface mineral deposits including oil and gas deposits, together with the right of ingress and egress on the properties conveyed to the City for exploration, drilling and excavation of such mineral, oil and gas deposits. Minerals covered in this reservation shall be deemed to include all of the minerals enumerated in Public Resources Code Section 6407. Nothing contained herein, however, shall preclude the City in its operation of the Harbor from moving or removing earth, including sand, gravel and other deposits for purposes of dredging, filling, excavating, bulkheading or any other ordinary port maintenance, construction or reconstruction without charge to the City therefor. The right of ingress and egress in the reservation shall be exercised in such manner and to such extent as not to unreasonably interfere with the property for the purposes for which it has been transferred under the Act.

The Act reserves to the people of the State of California

the right to hunt and fish in and over the waters of San Francisco Harbor. The right to hunt and fish is not intended to and does not limit the police powers of the City in connection with hunting or fishing in the city limits. The right to hunt and to fish shall not be exercised in such fashion as to interfere with the operation of the property for port purposes, nor shall such rights be exercised in an area or in such manner as to endanger the safety of persons or property.

The Act provides the property transferred remain subject to requirements of the Department of Public Works, Division of Bay Toll Crossings, Division of Highways, or the California Toll Bridge Authority for future rights of way, or easements or material for the construction, location, realignment, expansion and maintenance of bridges or other transportation facilities without compensation to the City except that in the event improvements, betterments or structures have been placed upon the property transferred, compensation shall be made to the City and credited to the Harbor Improvement Fund for the value of the improvements, betterments or structures taken, and except property taken that was originally acquired for valuable consideration shall require compensation to the City.

TRANSFER OF BUDGET CONTROLS

The Department of Finance approved budget under which the Port is acting at the time of the transfer will be deemed an

approved City budget for the remainder of the fiscal year. This budget will be incorporated in the City Controller's budgeting control procedures.

IV. CONDITIONS OF TRANSFER

Section 9 of the Act enumerates four express conditions of transfer. The first provision which requires the City to indemnify, defend and hold harmless the State with regard to certain outstanding bonded indebtedness is to be submitted to a special election to be held in the City on Tuesday, November 5, 1968. The provisions of Section 9 have been incorporated in the proposition which will be submitted to the voters. It is recognized that this condition must be approved by a two-thirds vote of the people of the City. Assuming it is so approved, the City does by this agreement also agree to indemnify, defend and hold harmless the State with regard to all outstanding bonded indebtedness incurred for San Francisco Harbor improvements. The bonds now outstanding and the schedule for repayment are those referred to in Section II above together with an additional principal sum of \$7,500,000.00 not yet sold and delivered under the Harbor Development Bond Law of 1958 (Harbors and Navigation Code Section 3900 et seq.). It is anticipated this \$7,500,000.00 principal amount of bonds will be issued prior to the transfer and that amount is therefore included in this agreement of indemnification. To carry out the requirements of this agreement the City will set up the funds set forth in Section II above in the same manner as the funds are presently set up in the office of the State Controller of the State of California. In the event that there are not sufficient funds in the San Francisco Harbor Improvement Fund set up by the City, the Board of Supervisors

shall at the time of fixing the general tax levy and in the manner for such general tax levy provided, levy and collect annually each year until such bonds are paid or until there is a sum in the treasury of the City set apart for that purpose to meet all the sums coming due for the principal and interest on said bonds, a tax sufficient to pay the annual interest on such bonds as the same become due and also such part of the principal thereof as shall become due before the proceeds of a tax levied at the time for making the necessary general tax levy can be made available for the payment of such principal.

In the same election, the City has submitted to the voters the assumption of the obligations and duties of the Port Authority set forth in Section 9 (3) of the Act. It is understood that to assume these obligations and duties requires a favorable vote of the electors by a two-thirds majority. Assuming such favorable vote is had, the City hereby agrees to assume the obligations and duties of the Port Authority on all outstanding contracts, leases, franchises or agreements (Bond obligations have been referred to specifically in the provisions above and are not intended to be included in this portion of the agreement). The Port will furnish the City with a description of all known obligations assumed by the City under this provision.

Section 9 (2) of the Act provides that the City shall transfer to the State amounts necessary to pay the amounts due

upon the bonded indebtedness prior to the time such amounts are due. The City hereby agrees to perform this obligation and will transfer from the funds set up in Section II hereof or from other monies if amounts in such funds are not sufficient to meet the obligations in full at least ten days prior to the time such amounts are due. Transfers will be made on warrant from the City from the City Controller to the State Controller of the State of California. He in turn will remit to the State Treasurer of the State of California so that the provisions of this section will be complied with.

The Controller's office of the State of California has schedules of deposits for deposits into the bond redemption funds. These schedules will be made available to the City. When these schedules are changed as by reason of changes in retirement of bonds issued or additional issuance the Controller of the State of California has advised the Comptroller of the San Francisco Port Authority of the proposed new changes in schedules and these changes have in turn been concurred in by the Authority. This practice shall likewise be followed by the Controller of the City so that adequate provision can be made by the Harbor Board in the management of its monies.

Section 9 (4) provides that the City will comply with the provisions of this Act. To comply with the provisions of the Act, the City hereby promises to perform all the obligations and requirements set forth in the Act. This agreement is one of the requirements of the Act and the City agrees that this agreement will become a binding obligation on the City prior to the

transfer.

V. REQUIREMENTS OF TRANSFER

Section 4 of the Act requires the City to establish a separate Harbor Trust Fund or funds in such manner as may be prescribed by the Department of Finance. It is the intention of the parties as more specifically set forth in Section II hereof that unless or until this agreement is amended, the City will set up funds to the same extent and for the same purpose as the Port Authority funds are presently set up by the State Controller of the State of California. When all the bond redemptions covered by a specific fund have been made or when the monies in Sea Wall Fund No.4 or Sea Wall Fund No. 5 have been exhausted, those funds may be discontinued. Nothing in this agreement, however, shall preclude the establishment of additional funds which may become necessary because of Harbor operations. The City agrees that all monies received directly from or indirectly attributable to the transferred lands or its facilities or any other property transferred hereunder shall be deposited in the fund or funds set up pursuant to this agreement. Monies not designated for other specific funds shall be deposited in the San Francisco Harbor Improvement Fund.

Section 4 of the Act provides that an annual statement of financial condition and operation shall be transmitted by the City to the Department of Finance each year on or before September 30th for the preceding fiscal year. The Port presently submits to the Director of Finance financial statements in accordance with section 7960 of the State Administrative Manual. The City agrees that it

will continue to submit these statements and that for purposes of the report required under the Act, it will comply with the State Administrative Manual. The City further agrees it will continue to furnish these statements in the same detail as presently furnished unless or until it is instructed by the Department of Finance of different requirements. Changes will be made by the City in the report as changes are required by the State Administrative Manual or the Port Authority Manual. The Department of Finance may at any time demand additional material or reports if such additional material or reports assist the Department in complying with its duties under the Act.

The City shall, at the request of the Department of Finance, make its books and records in connection with the Harbor available for audit and inspection to auditors of the State of California in order that the State may insure that the provisions of the Act are complied with and to assist the Department of Finance in complying with its duties under the Act.

Section 7 of the Act requires that the accumulation and expenditure of revenues for any single capital improvement on the transferred lands involving an amount in excess of \$250,000.00 in the aggregate shall require that the City file with the Department of Finance a detailed description of the capital improvement not less than 90 days prior to the time of any disbursement therefor or in connection therewith excepting preliminary planning. The

Department of Finance may within 90 days after the time of such filing determine and notify the City that such capital improvement is not in the statewide interest and benefit or is not authorized by any of the provisions of the Act, in which event proceedings may be conducted in accordance with Section 7 of the Act. The description shall specify the particular subdivision or subdivisions of the Act which the City deems applicable and its reasons for regarding such expenditure as being so authorized. To facilitate action under this section, the parties agree that the following are found to be matters of state-wide as distinguished from local or purely private interest and benefit.

(a) The construction, reconstruction, improvement, repair, operation and maintenance of works, lands, waterways, and facilities necessary for the harbor within the boundaries of the lands transferred under the Act.

(b) The construction, reconstruction, repair, operation and maintenance of streets, roadways, bridges and bridge approaches within the boundaries of, or reasonably necessary to provide immediate access to said harbor.

(c) The construction, reconstruction, repair, operation and maintenance of the bulkheads, piers, earthfills, streets, roadways, bridges, bridge approaches, buildings, structures, recreational facilities, landscaping, parking lots, utilities, and other improvements on or adjacent to the harbor for the benefit and use of said harbor.

(d) The construction, reconstruction, repair, operation and maintenance of small boat harbors, marine stadiums, maritime

museum, marine parks, beaches, waterways, and related facilities, on the lands transferred under the Act.

(e) In addition to the foregoing, any expenditures permitted by Sections 3 or 5 of the Act, or any other use or purpose of state-wide, as distinguished from local or purely private interest and benefit which are in fulfillment of those trust uses and purposes described in said Act.

(f) The acquisition of property or the rendition of services reasonably necessary to the carrying out of the foregoing uses and purposes.

The foregoing sections are not intended to limit the definition of the term "statewide benefit." If the proposed capital expenditure does not fall within subdivisions (a) to (f) above, it may nevertheless be authorized in the manner prescribed in Section 7 of the Act.

VI. EXPENDITURE OF PORT FUNDS AND USE OF PROPERTY

All of the property transferred under the Act shall be held by the City in trust for purposes of commerce, navigation and fisheries and subject to the terms and conditions specified in the Act and set forth in this agreement. All property acquired with funds derived from the transferred property shall likewise be so held by the City. Without prejudice to the generality of the foregoing, the parties agree specifically to the following.

Personal property transferred under the Act and property later acquired with Port funds to replace this property shall continue to bear separate designations so that the trust nature of the property can be determined. In the event that the City uses said property for other than trust purposes, it shall reimburse the Port funds for the use of such property. Nothing herein contained shall, however, prevent the Port from disposing of personal property which is obsolete or is no longer required for the trust purposes, but in that event the funds derived therefrom shall become Port funds subject to the purposes of the trust.

The City shall not require the Port to perform functions or accept or employ personnel in excess of functions or personnel required to carry out the purposes of the trust.

The Port presently maintains some streets and roadways within the Port area. The City may, if it elects to do so, undertake some or all of those functions of maintenance, but it may not require the Port to maintain streets and roadways outside the Port area nor may it require the Port to maintain streets,

roadways, bridges or other facilities maintained by the City at the time of transfer, nor may it require the Port to undertake the furnishing or maintenance of streets, roadways and bridges primarily designed as thoroughfares for the City rather than as roadways for Port purposes. In the event streets, roadways or bridges perform a dual function, an appropriate division of costs shall be made. This provision is not intended to affect the Embarcadero which is presently maintained by the Port, nor is it intended to prevent the Port from constructing or maintaining any streets, roadways, bridges or sidewalks the Port deems required.

Police traffic services in the Port area and protection of Port property is presently performed by the Port's police officers. In the event that duties other than police traffic services in the Port area or protection of Port property are required of the Port police, payment for such additional duties shall be made from other than Harbor funds.

Revenues received from parking meters installed on the transferred lands shall continue to accrue to the Port so long as the Port installs, operates and maintains the meters.

The Port presently performs at its own expense some fire protection services and reimburses the City for certain other fire protection services. In the event additional fire protection services are required, such additional services shall not be paid for out of Harbor funds.

Nothing in this agreement shall preclude the City from undertaking all or part of the services presently performed by the Port if economies will result therefrom. The Port shall not, however, be required to contribute to City services if such contribution will result in expenditures greater than those required.

VII. AUTONOMOUS OPERATION

Section 12 of the Act provides that the transferred property shall be under the administration and control of the Harbor Commission of the City and County of San Francisco. Section 4 of the Act provides for the establishment of a separate Harbor Trust Fund or Funds upon the transfer. Section 2 of the Act provides that the property transferred be held in trust for specified purposes and subject to the terms and conditions of the Act. In order to insure that these provisions be complied with, it is advisable that the transferred property be administered independently from other City property. Certain charter amendments are before the voters designed to insure this autonomous operation and such amendments will be approved by the voters prior to the transfer. It is agreed by the parties that the following provisions are necessary to the operation as set forth hereinabove and will be continued in effect unless or until this agreement is amended by mutual consent of the parties hereto, except that changes may be made in subparagraph 8 as set forth therein.

The Port Commission provided for by the Act shall have all the powers and duties given to boards and commissions by section 19 of the charter and shall have the power to establish such departments and bureaus as may be necessary or convenient for the conduct of its affairs. Subject to the terms and conditions of the transfer and this agreement, the Port Commission shall have the control and management of all real and personal property

transferred under the Act, or otherwise acquired or purchased with funds under its control or acquired or purchased by it within the scope of its authority, or otherwise placed under its management, supervision and control. The property under the control and management of the commission shall be known as the Port Area. The Port Commission shall have the power and duty to use, conduct, operate, maintain, manage, regulate, and control the Port Area of San Francisco and to do all things it deems necessary in connection with the use, conduct, operation, management, maintenance, regulation, improvement and control of said Port Area, or which may further the interests of the Port in world trade, including, without limiting the generality of the foregoing, the exclusive power to perform or accomplish the following in the Port Area:

1. The improvement, operation and conduct of the harbor, and any and all improvements or facilities located thereon;
2. The construction, reconstruction, repair, operation and use of all works, buildings, facilities, utilities, structures and appliances incidental, necessary or convenient for the promotion and accommodation of commerce and navigation, or located within the Port Area;
3. The establishment, improvement and conduct of railroad and aviation facilities and all works, buildings, facilities, utilities, structures and appliances incidental, necessary or

convenient for the promotion and conduct of air commerce and navigation and railroad transportation;

4. The construction, reconstruction, repair, maintenance and operation of public buildings, parks, playgrounds, public educational and recreation facilities and all works, buildings, facilities, utilities, structures and appliances incidental, necessary or convenient for the promotion and accommodation of any such uses;

5. The preservation or restoration of marine resources consistent with the primary mission of the harbor of San Francisco;

6. The grant of franchises thereof for limited periods not exceeding 66 years for wharves and other public uses and purposes and the lease of said lands, facilities, or any part thereof for limited periods not exceeding 66 years, and the collection and retention of rents and other revenues from such leases, franchises, permits, licenses, and privileges. Such lease or leases, franchises, permits, licenses, and privileges shall be for purposes consistent with the trusts upon which the lands are held by the State and with the requirements of commerce and navigation, or if the Port Commission of the City and County of San Francisco determines that any portion of the transferred lands is not required for the foregoing uses described in this section, such lease or leases, franchises, permits, licenses, and privileges, may be for the purposes of such development and use as the commission finds will yield maximum profits to be used by the commission in the furtherance of commerce and navigation;

7. Leases and franchises granted or made by the Port Commission shall be administered exclusively by the operating forces of the Port Commission;

8. There shall be a Port Director who shall be the chief executive of the Port Commission and who shall have the management of the affairs and activities placed under the jurisdiction of the commission. He shall devote his entire time to the duties of his office and his salary shall be fixed by the commission. He shall hold his office at the pleasure of the commission and shall have the management of said Harbor and of all of the facilities and equipment thereof and of all bureaus and departments established for the operation of said Harbor or for the operation of any equipment or facility thereof. Subject to the approval of the commission, he shall appoint and remove any and all heads of departments or bureaus who are not subject to the civil service provisions of the charter. He shall possess the necessary administrative, executive and technical qualifications necessary to enable him to perform the duties of his office. His compensation shall not exceed prevailing salaries paid those holding similar positions in comparable maritime employment. The commission may confer on him such additional powers and authority as it may see fit. It is understood and agreed that the presently incumbent Port Director shall remain the Port Director and continue to hold his office at the pleasure of the commission.

The proposed charter amendment which adds Section 48.3 provides in subsection 8 thereof that the Port Director shall be nominated for appointment by the commission and appointed by the Mayor. It is understood and agreed that a nominee for the position of Port Director shall become the Acting Port Director upon his acceptance of the nomination. The Acting Port Director shall be the chief executive of the Port Commission and acting head of the department and shall serve as such Acting Port Director at the pleasure of the commission until such time as he shall be appointed Port Director by the Mayor, or in the event he is not so appointed, until such time as the commission nominates another person for the position of Port Director. It is understood and agreed that nothing in the foregoing provisions shall be construed to prohibit an amendment to the charter to provide for the appointment of a Port Director by the commission.

9. To regulate the berthing, anchoring, towing, loading and unloading and mooring of vessels within the Port;

10. To issue receipts, negotiable or otherwise, for property or merchandise in its charge or possession;

11. To fix all rates, dockage, rentals, tolls, wharfage, and charges, for the use and occupation of the public facilities or appliances of the Port, and for services rendered by the Port Commission, and to provide for the collection thereof;

12. To enter into contracts, agreements, or stipulations germane to the scope of its powers and duties;

13. To give such bonds or assurances as may be required by the United States in the operations permitted hereunder;

14. To provide and equip offices within or without the Port, within other states, or in foreign countries, and through such employees and agencies as it may deem expedient;

15. To contract for and operate foreign trade zones within the Port Area or auxiliary to the Port Area, or such zones or sub-zones as have been operated by the San Francisco Port Authority. Agreement may be made with the Public Utilities Commission for operation of future zones or sub-zones in other areas;

16. Members and officers of the Port Commission shall be exempt from the provisions of the City charter relating to absences from the State, but shall advise the Mayor and the Board of Supervisors in advance of such absences;

17. May promote the maritime and commercial interests of the Harbor by advertising its advantages and facilities and by the solicitation of business. The advertising and solicitation may be conducted within or without this State and through such agencies, mediums, employees and agents as are determined by the commission. The commission may, in its discretion, publish and distribute a magazine, pamphlets, booklets and other printed and advertising matter for the purpose of developing traffic and promoting and maintaining the commerce and prestige of the Port, and may use any monies of the Harbor Fund for the special purposes authorized by this provision. Members and employees of

the commission in attending conventions of port authorities and meetings of transportation clubs, trade associations and business organizations that may advance the interests of the Port shall be allowed their actual necessary expenses in the performance of such services as may from time to time be deemed desirable by the commission and shall be allowed hospitality expenses necessarily incurred in furthering the interests of the Port;

18. To issue revenue bonds for purposes of the Act;

19. To expand all funds necessary to the carrying out of the powers and duties herein expressed;

20. This section does hereby vest in the Port Commission all of the powers set forth in Section 3 and Section 5 of the Act.

It is the understanding of the parties that the finding of the Department of City Planning that a proposed capital improvement project on Port property does not conform to the master plan does not preclude the Board of Supervisors from authorizing an appropriation of Port funds for the capital improvement project.

The Port may contract for and be responsible for its own telephone service.

Travel allowances for the Port Director and Commissioners within and without the State shall be no less than then authorized by the Board of Control of the State of California. Travel allowances for Port employees outside the State shall be no less than then authorized by the Board of Control of the State of California.

VIII. TRANSFER OF EMPLOYEES

Section 20 of the Act provides that the employees of the San Francisco Port Authority who at the time of the transfer are entitled to the benefits of the civil service provisions of the State of California shall be continued in their respective positions and shall continue to hold their positions pursuant to the civil service provisions of the charter of the City of San Francisco. The Act further defines the rights of these employees. The charter provisions which will be submitted to the voters on November 5, 1968, and particularly Section 48.4 thereof, further define the rights and privileges of the transferred employees. This agreement shall not be deemed to limit any of the rights or privileges afforded the employees under either the Act or the charter provisions but is intended only to correct ambiguities or reaffirm those rights.

It is agreed by the parties that the date at which the benefits of civil service provisions will be determined shall be the date of the transfer of the property. An employee who qualifies under this provision is any employee regularly certified and appointed from an eligible list. This includes State Belt Railroad employees who do collectively bargain but are employees entitled to civil service provisions which provisions govern their status over matters for which they have not collectively bargained. At the time of transfer, there may be some temporary or casual employees who do not have the benefit of civil service provisions. The rights of an employee in this status will

terminate as it would had the property not been transferred to the City. Other employees may, however, be on temporary appointment awaiting civil service examination. In that event, the City will schedule the necessary examinations as soon as possible so as to insure continuity of employment whenever possible.

It is agreed by the parties that on matters of seniority for transferred employees, the City shall set up a seniority system using the date of the first permanent appointment to employment under State employment in the same manner and to the same extent as if the employee had in fact been employed under the City system. The schedule now set up by the City shall, therefore, be extended to the transferred employee in accordance with the terms of the Act and this agreement.

The Act provides for the retention by the transferred employees of salary, employment conditions and benefits. At the present time, permanent State employees have equal or greater sick leave and vacation privileges than provided for by City civil service. To carry out the provisions of the Act, the City shall permit the transferred employee to carry over to City service all accumulated sick leave and to continue to accumulate sick leave as the employee would have accumulated that sick leave had he remained in State service. Vacation rights shall likewise be carried over. Where the employee has greater vacation rights under State service, he shall continue to accrue vacation rights

in the same manner and to the same extent as if he had remained in State service. Some employees have group insurance or other insurance policies which may be dependent on membership in the California State Employees Association or some other group association or arrangement that may not be available to the employee by reason of the transfer. If these employees will no longer be eligible for this membership, the City agrees to assist the employees in whatever way is necessary to continue these insurance policies. In the event that the carrier requires additional contribution from the employee by reason of the discontinuance in a group membership and in the event the City cannot satisfy the carrier with membership in its own group for the purpose of continuing the policies without change in amount or benefits, the City agrees to compensate the employees for any additional charges that may be required by the carrier by reason of the employee's loss of membership in the group or supply equivalent insurance with some other carrier.

The State presently provides a contribution toward payment of the employee's health insurance plan. This payment shall be continued by the City for each transferred employee in the same amount as is at any time allowed by the State.

Port employees are presently allowed to select their own doctor and hospital when receiving benefits under Workmen's Compensation. These rights shall be continued by the City for each transferred employee so long as the practice is permitted by the insurance carrier.

An employment condition and benefit of the transferred

employees in the right to take competitive examinations for other positions in State service. Six months after the transfer the transferred employees will have lost this right in State service, but the City shall afford a similar right in City service in the same manner and to the same extent as it would afford to the employees had they been City employees originally. If the employees are accepted in the new positions, they shall retain such additional benefits as they had under this agreement with reference to the State Employees Retirement System, vacation rights, sick leave, insurance privileges and similar benefits.

Each employee eligible for transfer shall be notified by the Port Authority of his right to transfer to another State agency or to be placed on a State layoff list within six months from the date of transfer.

Section 20 of the Act provides the employee shall retain his position on existing subdivisional and departmental promotional and eligible lists as long as such lists are in effect. The employee on such list shall be certified from the list in the same manner and to the same extent as if the employee had remained in State service.

Section 20 of the Act provides the employee shall retain overtime and shift premium pay whenever and wherever applicable. These benefits shall be afforded by the City in the same manner and to the same extent as if the employee had remained in State service.

Section 20 of the Act provides the employee shall have callback and standby pay whenever and wherever applicable. These benefits shall be afforded by the City in the same manner and to the same extent as if the employee had remained in State service.

Section 20 of the Act provides the City shall waive residence requirements for the transferred employees. The City agrees it shall permit the transferred employees to reside in any area whatever without limitation.

Section 20 of the Act provides the transferred employees shall have continued membership in the Public Employees Retirement System. The City shall permit the transferred employees to continue to be members of the Public Employees Retirement System with all the rights, privileges and benefits of said system, and they shall not be members of the San Francisco City and County Employees' Retirement System. The City shall perform all acts necessary to continue the membership of such employees in said Public Employees Retirement System.

Employees of the State Belt Railroad are not members of the Public Employees Retirement System of the State of California but are covered under the provisions of the Railroad Retirement Act. Such employees shall not be required to be members of the San Francisco City and County Employees' Retirement System but may continue to be covered under the provisions of the Railroad Retirement Act.

Section 20 of the Act requires that the transferred employees shall retain their option to continue any present health insurance and group life coverage. The City agrees to perform all

acts necessary to insure that these rights will be carried out in the same manner and to the same extent as if the employees had continued in State service. In the event this cannot be accomplished without the payment of additional premium, the City shall compensate the employee for the cost of the additional premium.

Employees who are employed after the date of transfer shall be and become City employees and their rights shall not be affected by Section 20 of the Act or by this agreement.

IX. TRANSFER OF EXCESS REVENUES

Section 8 of the Act provides that at the end of each fiscal year that portion of the San Francisco Harbor revenues in excess of \$250,000 remaining after necessary operating costs and expenditures directly related to the operation of the maritime activity of the Port or the maintenance of non-maritime activities of the Harbor have been made shall be deemed excess revenue; provided that any funds deposited in a reserve fund for future capital expenditures or any funds used to retire general obligation or revenue bond issues shall not be deemed excess revenue. Capital improvements for non-maritime activities may be considered as expenditures for the purpose of determining net revenues if they have the prior authorization of the Department of Finance.

Capital improvements authorized under the provisions of Sections 3 and 5 of the Act and Part V of the agreement shall be deemed expenditures for the purposes of determining net revenues. Procedures for authorization shall be as specified in Section 7 of the Act, except that for the purposes of the Act, in the instance of non-maritime activity as defined in Part IX of this agreement where a capital expenditure is for a sum less than \$250,000, the Department of Finance and the Harbor Commission may agree upon a procedure for obtaining the approval as required by Section 8 of the Act.

With respect to those provisions of Section 8 which affect the allocation of certain expenditures for the determination of

excess revenues, as follows:

1. Operating costs and expenditures directly related to operation of the maritime activity of the Port; and
2. Maintenance of non-maritime activities of the harbor, the parties agree that the following are matters of "maritime activity":

All construction, reconstruction, improvement, repair, maintenance, operation, acquisition, promotion and protection of any property, facility or service,

(a) which provides for, or is necessary, incidental or auxiliary to the interchange of goods, products or persons, between land or water or land-based or water carriers, or any combination thereof; or

(2) which provides for, or is necessary, incidental or auxiliary to the berthing, accommodation, repair, construction or equipment of vessels or other facilities used in connection with commerce or water activities.

Non-maritime activities on the transferred lands shall include the following:

Parks, playgrounds, public educational and recreational facilities, and all works, buildings, facilities, structures and appliances used in connection therewith.

Any use which is not covered under the foregoing definition

of maritime activity or non-maritime activity shall be subject to further agreement between the Port Commission and the Director of Finance.

In determining excess revenue, the Port shall:

(a) First expend all amounts necessary for operating costs and expenditures incurred during the previous fiscal year related to the operation of the maritime activity.

(b) Expend all amounts necessary for the maintenance of non-maritime activities incurred for the previous fiscal year.

(c) Deposit any funds that may be required to retire general obligation or revenue bond issues, including any reserves which may be required to be set up under the general obligation or revenue bond issues.

(d) Set up a reserve fund for future capital expenditures for maritime activities if such improvements have the prior authorization of the Department of Finance and if the details and terms of reserves have been agreed to by the Department of Finance.

(e) Set up a reserve fund for capital improvements for non-maritime activities if such improvements have the prior authorization of the Department of Finance.

(f) Set up a cash reserve against depreciation sufficient for replacement of personal property or structures required to carry out the purposes of the Act

if the details and terms of reserves have been agreed to by the Department of Finance.

Excess revenue then remaining over \$250,000 shall be divided 85 per cent to the State General Fund and 15 per cent to the City to be deposited in the Harbor Trust Fund and used for purposes authorized by Sections 3 and 5 of the Act.

X. PROVISIONS FOR DIVESTITURE

Section 22 of the Act provides for the reversion of the lands transferred under the Act.

XI. PROTECTION OF EXISTING USES

Most of the present users of the transferred lands were not permitted to have leases under the existing law governing the operation of the transferred lands. Under Harbors and Navigation Code Section 3063, permitted uses of property were terminable by the Authority on 30 days previous notice to the person using the property. It has not been the practice of the State to terminate these uses without reasonable cause. When the City takes the transferred lands, the City shall make every effort to provide present users of the property with continued occupancy under fair terms and conditions and without unfair advantage or discrimination.

XII. AMENDMENT

This agreement is in itself an express condition of transfer under Section 9 of the Act and a term of transfer under Section 14 of the Act.

This agreement shall be binding on the City and the Department of Finance unless or until the parties amend this agreement in writing between the parties hereto.

In the event, however, that the Legislature amends, modifies or revokes the Act, as provided in Section 18 thereof, to the extent such action of the Legislature is not in conformity with this agreement, this agreement will be deemed amended, modified or revoked thereby in accordance with the action of the Legislature. In that event the parties hereto will meet promptly to negotiate any necessary changes.

IN WITNESS WHEREOF, the City and the State of California have respectively caused this agreement to be duly executed as of the day and year first above written.

3.580 - 3.581

PART NINE: PORT COMMISSION

3.580 Commission; Composition

The San Francisco Port Commission shall consist of five members who shall be appointed by the mayor, their appointment being subject to confirmation by the board of supervisors. Each of said members shall serve for a term of four years. Vacancies on the commission shall be filled by the mayor for the unexpired portion of the term. Initial appointive members of the commission shall consist of the incumbent members of the San Francisco Port Authority, who shall serve as commissioners for a term corresponding to the unexpired portion of their tenure as members of the port authority. In addition, the director of finance and secretary of agriculture and services, or their designated representatives, shall be ex-officio members of the commission. Persons appointed to the port commission shall be subject to recall, suspension and removal in the same manner as an elected official. The compensation of each member of said port commission shall be \$1,200 per year. Ex-officio members of the commission shall serve as such without compensation.

3.581 Powers and Duties

The port commission shall have all the powers and duties given to boards and commissions by Section 3.500 of the charter and shall have the power to establish such departments and bureaus as may be necessary or convenient for the conduct of its affairs. Subject to the terms and conditions of the transfer and any supplemental agreements relating thereto, the port commission shall have the control and management of all real and personal property transferred under the Statutes 1965, ch. 1333, or otherwise acquired or purchased with funds under its control or acquired or purchased by it within the scope of its authority, or otherwise placed under its management, supervision and control. The property under the control and management of the commission shall be known as the port area. The port commission shall have the power and duty to use, conduct, operate, maintain, manage, regulate, and control the port area of San Francisco and to do all things it deems necessary in connection with the use, conduct, operation, management, maintenance, regulation, improvement and control of said port area, or which may further the interests of the port in world trade, including, without limiting the generality of the foregoing, the exclusive power to perform or accomplish the following:

(a) The improvement, operation and conduct of the harbor, and any and all improvements or facilities located thereon.

(b) The construction, reconstruction, repair, operation and use of all works, buildings, facilities, utilities, structures and appliances incidental, necessary or convenient for the promotion and accommodation of commerce and navigation, or located within the port area;

(c) The establishment, improvement and conduct of railroad and aviation facilities and all works, buildings, facilities, utilities, structures and appliances incidental, necessary or convenient for the promotion and conduct of air commerce and navigation and railroad transportation;

(d) The construction, reconstruction, repair, maintenance and operation of public buildings, parks, playgrounds, public educational and recreation facilities and all works, buildings, facilities, structures and appliances incidental, necessary or convenient for the promotion and accommodation of any such uses;

(e) The preservation or restoration of marine resources consistent with the primary mission of the harbor of San Francisco;

(f) The grant of franchises thereof for limited periods not exceeding 66 years for wharves and other public uses and purposes and the lease of said lands, facilities, or any part thereof for limited periods not exceeding 66 years, and the collection and retention of rents and other revenues from such leases, franchises, permits, licenses, and privileges. Such lease or leases, franchises, permits, licenses, and privileges shall be for purposes consistent with the trusts upon which the lands are held by the state and with the requirements of commerce and navigation, or if the port commission of the City and County of San Francisco determines that any portion of the transferred lands is not required for the foregoing uses described in this section, such lease or leases, franchises, permits, licenses, and privileges, may be for the purposes of such development and use as the commission finds will yield maximum profits to be used by the commission in the furtherance of commerce and navigation;

(g) Leases and franchises granted or made by the port commission shall be administered exclusively by the operating forces of the port commission;

(h) The power to nominate for appointment a port director who shall be the chief executive of the port commission and who shall have the management of all the affairs and activities placed under the jurisdiction of the commission. The mayor shall appoint a port director. He shall devote his entire time to the duties of his office and his salary shall be fixed by the commission. He shall hold his office at the pleasure of the commission and shall have the management of said harbor and of all of the facilities and equipment thereof and all bureaus and departments

established for the operation of said harbor or for the operation of any equipment or facility thereof. Subject to the approval of the commission, he shall appoint and remove any and all heads of departments or bureaus, who may not be subject to the civil service provisions of the charter. He shall possess the necessary administrative, executive and technical qualifications necessary to enable him to perform the duties of his office. His compensation shall not exceed prevailing salaries paid those holding similar positions in comparable maritime employment. The commission may confer on him such additional powers and authority as it may see fit:

(i) To regulate the berthing, anchoring, towing, loading and unloading and mooring of vessels within the port;

(j) To issue receipts, negotiable or otherwise, for property or merchandise in its charge or possession;

(k) To fix all rates, dockage, rentals, tolls, wharfage, and charges, for the use and occupation of the public facilities or appliances of the port, and for services rendered by the port commission, and to provide for the collection thereof;

(l) To enter into contracts, agreements, or stipulations germane to the scope of its powers and duties;

(m) To give such bonds or assurances as may be required by the United States in the operations permitted hereunder;

(n) To provide and equip offices within or without the port, within other states, or in foreign countries, and through such employees and agencies as it may deem expedient;

(o) To contract for and operate foreign trade zones within the port area or auxiliary to the port area, or such zones or sub-zones as have been operated by the San Francisco Port Authority. Agreement may be made with the public utilities commission for operation of future zones or sub-zones in other areas;

(p) Members and officers of the port commission shall be exempt from the provisions of the city charter relating to absences from the state, but shall advise the mayor and the board of supervisors in advance of such absences;

(q) May promote the maritime and commercial interests of the harbor by advertising its advantages and facilities and by the solicitation of business. The advertising and solicitation may be conducted within or without this state and through such agencies, mediums, employees and agents as are determined by the commission. The commission may, in its discretion, publish and distribute a magazine, pamphlets, booklets and



other printed and advertising matter for the purpose of developing traffic and promoting and maintaining the commerce and prestige of the port, and may use any moneys of the harbor fund for the special purposes authorized by this provision. Members and employees of the commission in attending conventions of port authorities and meetings of transportation clubs, trade associations and business organizations that may advance the interests of the port shall be allowed their actual necessary expenses in the performance of such services as may from time to time be deemed desirable by the commission and shall be allowed hospitality expenses necessarily incurred in furthering the interests of the port:

- (r) To issue revenue bonds as provided in Section 7.305;
- (s) To expend all funds necessary to the carrying out of the powers and duties herein expressed;
- (t) This section does hereby vest in the port commission all of the powers set forth in Section 3 and Section 5 of the Statutes of 1965, Chapter 1333, which provisions are hereby incorporated in the charter by this reference.

3.552 Transfer of Harbor

The City and County of San Francisco shall accept the transfer and assume jurisdiction and control of the harbor of San Francisco and the facilities thereof in accordance with the terms and conditions of Statutes 1965, ch. 1333. All the powers and duties incident to the management, government, control and administration of said harbor and all properties and utilities used in connection therewith, shall be vested in the port commission of the City and County of San Francisco.

The board of supervisors of the City and County of San Francisco shall have and is hereby granted power to enter into any agreement with the State of California, the director of finance, or any officer, agency or commission of the State of California, and to pass all necessary legislation and to do or perform any other act or acts deemed necessary to effect the transfer of the jurisdiction and control of the harbor of San Francisco, or any of the facilities thereof, to the City and County of San Francisco.

3.553 Status of Employees

All employees of the port authority who, at the time the transfer provided for herein shall go into effect, are members of the Public Employees' Retirement System of the State of California shall continue to be members of said Public Employees' Retirement System, with all the

3.583 - 3.585

rights, privileges and benefits of said system and they shall not be members of the San Francisco City and County Employees' Retirement System; and, notwithstanding any other provisions of this charter, the city and county shall perform all acts necessary to continue the membership of such employees in said Public Employees' Retirement System.

All employees of the port authority who, at the time the transfer provided for herein shall go into effect, are covered under the provisions of a retirement program other than the Public Employees' Retirement System of the State of California shall thereafter continue to be covered under such retirement program and they shall not be members of the San Francisco City and County Employees' Retirement System; and, notwithstanding any other provisions of this charter, the city and county shall perform all acts necessary to continue the coverage of such employees under such retirement program.

Persons who, after the transfer provided for herein has gone into effect, become employees of the city and county in positions related to the operation of the State Belt Railroad and who become covered under the provisions of the Railroad Retirement Act by virtue of their employment in such positions shall not be members of the San Francisco City and County Employees' Retirement System.

3.584 Budgeting and Fiscal Procedure

In the matter of the control and operation of the harbor and of the facilities and equipment thereof, including the matter of budgets and appropriations, the port commission shall be subject to the budgetary and fiscal procedure elsewhere provided for in this charter.

3.585 Legal Advisor

The city attorney shall be the legal advisor of the commission, and may, with the approval of the commission, compromise, settle or dismiss any litigation or legal proceeding, pending for or on behalf of the commission relative to any matter under its jurisdiction, and said commission may with the consent of the mayor and the approval of the city attorney appoint special counsel.

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An act authorizing the transfer in trust to the City and County of San Francisco the interest of the state in and to, and the control and management of, the Harbor of San Francisco, and declaring the urgency thereof, to take effect immediately.

The people of the State of California do enact as follows:

SEC. 1. This act shall be known and may be cited as the "Burton Act."

SEC. 2. The Director of Finance is hereby authorized to negotiate with the City and County of San Francisco for the transfer, in conformity with the provisions of this act, to the City and County of San Francisco, a municipal corporation of the State of California, or to its successor, in trust for purposes of commerce, navigation, and fisheries and subject to the terms and conditions specified in this act, all of the right, title and interest held by the State of California and acquired by virtue of its sovereignty or otherwise, in and to the real property located in the City and County of San Francisco and presently under the jurisdiction and control of the San Francisco Port Authority, together with all improvements, rights, privileges, easements and appurtenances connected therewith or in anywise appertaining thereto, and any and all personal property of every kind and description owned or controlled by the State of California and used in connection with the operation and

maintenance of San Francisco Harbor and including any deposits of funds held by or for the San Francisco Port Authority; excepting and reserving unto the State of California all subsurface mineral deposits, including oil and gas deposits, together with the right of ingress and egress on the properties conveyed to the City and County of San Francisco for exploration, drilling and extraction of such mineral, oil and gas deposits, subject, however, to the provision that during the term of any lease, franchise, permit or license of such property pursuant to Section 3 of this act, such mineral rights herein reserved to the State of California, including the right of ingress and egress, shall not be exercised so as to disturb or otherwise interfere with the leasehold estate or the rights or encumbrances to which any such lease, franchise, permit or license may be subject; provided, however, that any lease, franchise, permit or license of such property pursuant to Section 3 of this act must contain a provision specifying at least one point from which and the manner in which the right of ingress or egress to said subsurface deposits may be exercised, which said point or points may be outside the area of the leasehold, franchise, permit or license, providing the point or points are adequate to permit the rights reserved to the state to be exercised; and also reserving to the people of the State of California the right to hunt and fish in and over the waters of San Francisco Harbor. The negotiations shall be concluded by October 21, 1968, unless such time is extended by mutual agreement. In lieu of any survey which might otherwise be

required by law, within three years after the effective date of this act, the State Lands Commission shall, at the cost of the Port Commission of the City and County of San Francisco, provide a description of the transferred lands, using such references and designations as are commonly known place names and geographical and political boundaries, and surveying and monumenting only when known designations or points of reference are not available. The description so prepared and a plat thereof shall thereafter be recorded by the State Lands Commission in the office of the Recorder of the City and County of San Francisco. This act shall not apply to any property or interest in property, whether real or personal, owned by or under the jurisdiction or control of the Department of Public Works, Division of Highways, Division of Bay Toll Crossings, or the California Toll Bridge Authority. All that property described in Section 1770 of the Harbors and Navigation Code and transferred to the City and County of San Francisco by this act shall remain subject to any requirements of the Department of Public Works, Division of Bay Toll Crossings, Division of Highways, or the California Toll Bridge Authority for future right-of-way, or easement, or material for the construction, location, realignment, expansion and maintenance of bridges, highways or other transportation facilities without compensation to the City and County of San Francisco, except that in the event improvements, betterments or structures have been placed upon the property transferred, compensation shall be made to the City and County of San Francisco, and to any third party

entitled thereto, for the value of the improvements, betterments, or structures taken, and except property that was originally acquired for valuable consideration, in which case compensation shall be made to the City and County of San Francisco. The Director of Finance shall be assisted in such negotiations by the Secretary for Agriculture and Services and the San Francisco Port Authority.

SEC. 2.5. Notwithstanding the exception and reservation to the State of California of subsurface mineral deposits, as set forth by Section 2 of this act, as to those materials in the area known as Presidio and Alcatraz Shoals commonly used for purposes of land fill, including, but not limited to, earth, sand, gravel, and aggregates, on or after January 1, 1976, any contract to lease or franchise, or other agreement concerning such area shall be entered into by the mutual agreement of the State Lands Commission and the City and County of San Francisco acting by and through the San Francisco Port Commission. The area subject to this section is hereby more particularly described as follows:

Beginning at Alcatraz Light (X=1,445,185; Y=488,602) located on Alcatraz Island; running thence in a direct line northerly toward Point Blunt Rock (X=1,446,515; Y=498,171) located on Angel Island, for a distance of 900 yards; thence westerly in a direct line toward North Tower (X=1,428,696; Y=488,678) of the Golden Gate Bridge, for a distance of 2,100 yards to a point due South of Point Knox; thence southwesterly in a direct line toward South Tower (X=1,428,995; Y=484,489) of the

Golden Gate Bridge, for a distance of 2,800 yards; thence due South to the shore line of San Francisco; thence generally easterly along the shore line of San Francisco to its intersection with a direct line between Coit Tower (X=1,449,719; Y=479,821) and aforesaid Alcatraz Light; thence northwesterly on last aforesaid line to Alcatraz Light and the point of beginning.

Coordinates shown are California State Grid, Zone 3.

It is not the intent of this section to change any existing right of any party in the subject area.

SEC. 3. The City and County of San Francisco, through a Harbor Commission of the City and County of San Francisco, shall have complete authority, except as otherwise agreed to as a condition of the transfer and as provided in this act, to use, conduct, operate, maintain, manage, regulate, improve and control the harbor of San Francisco and to do all things it deems necessary in connection with the use, conduct, operation, management, maintenance, regulation, improvement and control of said harbor which are not prohibited by the laws of the State of California or the Charter of the City and County of San Francisco and which are in conformance with the terms of this act, including, without limiting the generality of the foregoing, the following:

1. The improvement and conduct of the harbor and the construction, reconstruction, repair and operation of all works, buildings, facilities, utilities, structures and appliances, incidental, necessary or convenient for the promotion and

accommodation of commerce and navigation;

2. The use for all commerce and industrial purposes and the construction, reconstruction, repair, maintenance of commercial and industrial buildings, plants and facilities;

3. The establishment, improvement and conduct of railroad facilities, which facilities shall not be subject to Public Utilities Commission regulation, and aviation facilities and all works, buildings, facilities, utilities, structures and appliances incidental, necessary or convenient for the promotion and conduct of air commerce and navigation and railroad transportation;

4. The construction, reconstruction, repair, maintenance and operation of public buildings, parks, playgrounds, public educational and recreational facilities and all works, buildings, facilities, structures and appliances incidental, necessary or convenient for the promotion and accommodation of any such uses;

5. The preservation or restoration of marine resources consistent with the primary mission of the San Francisco Harbor;

6. The grant of franchises thereof for limited periods not exceeding 66 years for wharves and other public uses and purposes and the lease of said lands, facilities, or any part thereof for limited periods not exceeding 66 years, and the collection and retention of rents and other revenues from such leases, franchises, permits, licenses, and privileges shall be for purposes consistent with the trusts upon which the lands are held by the state and with the requirements of commerce and

navigation, or if the Harbor Commission of the City and County of San Francisco determines that any portion of the transferred lands is not required for the foregoing uses described in this section, such lease or leases, franchises, permits, licenses, and privileges, may be for the purposes of such development and use as the commission finds to be in the public interest, with moneys derived therefrom to be used by the commission in the furtherance of commerce and navigation. The moneys derived from such lease or leases, franchises, permits, licenses, and privileges shall be used solely for the furtherance of the purposes specified by this act.

SEC. 3.5. (a) Notwithstanding any other provision of law, the City and County of San Francisco may transfer to the United States, for inclusion in the Golden Gate National Recreation Area, lands underlying the perimeter of the Municipal Recreation Pier at the foot of Van Ness Avenue, together with all improvements and structures upon or above such lands, that are granted to the city and county pursuant to this act.

(b) Such transfer may be made subject to such conditions as the city and county may impose.

(c) There is hereby excepted and reserved to the state all deposits of minerals, including, but not limited to, all substances specified in Section 6407 of the Public Resources Code, in the lands granted to the city and county by this act; and there is further reserved to the state, or persons authorized by the state, the right to prospect for, mine, and remove such

deposits from the lands, so long as the exercise of such right does not unreasonably interfere with the use of the lands for the purpose specified in subdivision (a).

(d) There is hereby reserved to the people of the state the absolute right to fish in the waters over such lands, with the right of convenient access to such waters for such purpose.

(e) If the United States ceases to use the lands for the purpose specified in subdivision (a), all right, title, and interest of the United States in the lands shall cease and title in the lands shall revert to the city and county.

SEC. 4. The City and County of San Francisco shall establish a separate harbor trust fund or funds upon the transfer in such manner as may be prescribed by the Department of Finance; the city and county shall deposit in the fund or funds all moneys received directly from or indirectly attributable to facilities on the transferred lands in the harbor. An annual statement of financial condition and operations, to conform with such requirements as the Department of Finance may prescribe, shall be submitted to the Department of Finance each year by the city and county on or before September 30th of each year for the preceding fiscal year.

SEC. 5. Notwithstanding any other provision of law to the contrary, the City and County of San Francisco, either acting alone or jointly with another local or state agency, may use revenues accruing from or out of the use of the transferred lands for any or all of the following purposes, provided the same

comply with the terms of the trust which are matters of statewide as distinguished from local or purely private interest and benefit:

1. The construction, reconstruction, improvement, repair, operation, maintenance, promotion, and protection of works, lands, waterways, and facilities necessary for the development of such transferred lands for highest and best use in the public interest, including commerce, navigation, fisheries, marinas, small boat harbors, marine stadiums, maritime museums, marine parks, beaches, and such streets, roadways, bridges, bridge approaches, earthfills, bulkheads, piers, supporting structures, buildings, recreational facilities, landscaping, and parking lots situated upon such transferred lands, or adjacent thereto and reasonably necessary to provide access to, or development of, such transferred lands;

2. The promotion, by advertising and such other means as may be reasonable and appropriate, of maximum public use of such transferred lands or to encourage private investment in development of such transferred lands for the highest and best use in the public interest;

3. Any other uses or purposes of state, as distinguished from purely local or private, interest and benefit, which are in fulfillment of those trust uses and purposes described in this act;

4. The acquisition of property and the rendition of services reasonably necessary to the carrying out of the

foregoing uses and purposes, including the amortization or debt service of any capital improvement funding program which is consistent with the terms and conditions set forth in this act.

SEC. 6. Such revenues may be deposited in one or more reserve funds for use in accordance with the terms and conditions set forth in this act..

SEC. 7. [Repealed - Chapter 745 (1979)]

SEC. 8. [Repealed - Chapter 745 (1979)]

SEC. 9. As express conditions to such transfer, the City and County of San Francisco shall agree to:

1. Indemnify, defend, and hold harmless the state with regard to all outstanding bonded indebtedness incurred for San Francisco Harbor improvements;

2. Transfer to the state amounts necessary to pay the amounts due upon such bonded indebtedness prior to the time such amounts are due; and

3. Assume the obligations and duties of the port authority under all other outstanding contracts, leases, franchises or agreements.

4. Comply with the provisions of this act.

SEC. 10. The transfer authorized by this act shall be deemed to take effect when the voters of the City and County of San Francisco, at an election duly held and conducted, have assented to the transfer under the terms and conditions specified in this act and the results of the election have been certified to according to law.

SEC. 11. Upon certification of the vote specified in Section 10, the authority, justification and control of San Francisco Port Authority over San Francisco Harbor and the facilities thereof shall be deemed transferred to the City and County of San Francisco and the port authority shall cease to function and be dissolved. The City and County of San Francisco shall thereupon assume control and jurisdiction over the San Francisco Harbor and facilities and shall have complete authority to use, operate, maintain, manage, regulate, improve and control the harbor of San Francisco and to do and perform all acts as may be deemed necessary in connection with the use, operation, maintenance, management, regulation, improvement and control of said harbor as may be prescribed.

SEC. 12. San Francisco Harbor and facilities shall be under the administration and control of the Harbor Commission of the City and County of San Francisco which shall be established in accordance with the provision of the Charter of the City and County of San Francisco. The commission shall consist of five members, each member serving for a term of four years. Except as hereinafter provided, each of said members shall be appointed by the mayor, said appointment being subject to confirmation by the Board of Supervisors of the City and County of San Francisco. In order that there be no interruption in the orderly operation and management of San Francisco Harbor, the incumbent members of the San Francisco Port Authority shall serve as the initial members of the commission for periods corresponding to the unexpired

portions of their respective terms as members of the San Francisco Port Authority.

SEC. 13. The Department of Finance, at the request of the City and County of San Francisco, shall grant an extension of time, not to exceed 30 calendar days, for filing any report or statement required by this act which was not filed due to mistake or inadvertence.

SEC. 14. In the event that the City and County of San Francisco fails or refuses to file with the Department of Finance any report, statement, or document required by any provision of this act within the time period specified by this act, or any extension period granted pursuant to this act, or fails or refuses to carry out the terms of the transfer by which the lands were transferred to it pursuant to this act, the Attorney General shall, upon request of the Department of Finance, bring such judicial proceedings for correction and enforcement as are appropriate, and shall act to protect any properties and assets situated on the transferred lands or derived therefrom. The Department of Finance shall notify the Chief Clerk of the Assembly and the Secretary of the Senate within 30 days of the occurrence of such failure or refusal and of actions taken as a result thereof.

SEC. 15. The Department of Finance shall, from time to time, recommend to the Legislature such amendments as it may deem necessary in the terms and conditions of this act.

SEC. 16. The Department of Finance shall, from time to

time, institute a formal inquiry to determine that the terms and conditions of this act, and amendments thereto, have been complied with, and that all other applicable provisions of law concerning these specific transferred lands are being complied with in good faith.

SEC. 17. The Department of Finance shall, on or before December 31st of each year, report to the Chief Clerk of the Assembly and to the Secretary of the Senate, the full details of any transaction or condition reported to the department pursuant to this act which it deems in probable conflict with the requirements of this act, or with any other provision of law.

SEC. 18. The Legislature reserves the right to amend, modify, or revoke, in whole or in part, the transfer of lands in trust provided for in this act, provided that the state shall thereupon assume all lawful obligations related to such lands as may revert to the state by such action.

SEC. 19. The Attorney General, at his own instance, or upon formal request of the Department of Finance, or by resolution of either house of the Legislature, shall bring an action in the superior court of the city and county to declare that the transfer under which the city and county holds such transferred lands is revoked for gross and willful violation of the terms of such transfer or the provisions of this act or other legislative enactment, or to compel compliance with the terms and conditions of the transfer and any other provision of law including, but not limited to, this act.

SEC. 20. All persons actually employed in the service of the San Francisco Port Authority at the time this act takes effect and who at said date shall be entitled to the benefits of the civil service provisions of the State of California insofar as the same may be applicable to the employees of the San Francisco Port Authority, shall be continued in their respective positions and shall continue to hold their positions pursuant to the civil service provisions of the Charter of the City and County of San Francisco and they shall be entitled to all of the rights, benefits, and privileges which such persons might have or might have had, had such persons been originally appointed to their respective positions under certification from the civil service commission of the City and County of San Francisco, and in the matter of seniority in service of such employees entitled to the benefits of said civil service provisions as herein provided, the seniority of each employee shall be reckoned from his first permanent appointment to employment under the State of California, and as to their respective positions such employees shall have preference over all other employees of the City and County of San Francisco. The employment rights of such state employees shall be fully protected at the time of the transfer authorized by this act. Salary, employment conditions, and benefits shall be no less than those received by the employees of the San Francisco Port Authority at the time of transfer. These rights and benefits include, but are not limited to: probationary or permanent civil service status, and any career executive

appointments; retention of employees' positions on existing subdivisional and departmental promotional and eligible lists, as long as they are in effect; no less than the same wage and salary range for comparable classes; overtime and shift premium pay whenever and wherever applicable; callback and standby pay whenever and wherever applicable; continued membership in the Public Employees' Retirement System provided by the City and County of San Francisco, or any other retirement program in effect with the San Francisco Port Authority; retention of vacation and sick leave balances which such employees now have when they become employees of the City and County of San Francisco; waiver of residence requirements; and retention of the option to continue any present health insurance and group life coverage. Upon assent to the transfer of lands as authorized by this act by the City and County of San Francisco, any employee desiring to transfer to another state agency or to be placed on a state layoff list may do so within six months of such assent and shall retain all state civil service rights and benefits.

SEC. 21. If negotiations are not concluded by October 21, 1968, unless such time is extended by mutual agreement, or if by December 31, 1970, the transfer authorized by this act has not been negotiated and the voters of the City and County of San Francisco have not assented to the transfer, the provisions of this act shall be on no further force or effect.

SEC. 22. On or before August 14, 2003, the lands transferred pursuant to this act shall be substantially improved

by the city and county without expense to the state, and the city and county shall issue bonds in the amount of at least twenty-five million dollars (\$25,000,000) for harbor purposes. If the Department of Finance determines that the city and county has failed to improve the lands as herein required and issue such bonds as herein required, all right, title, and interest of the city and county in and to all such lands shall cease and the lands shall revert and rest in the state.

SEC. 23. This act is an urgency statute necessary for the immediate preservation of the public peace, health or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting such necessity are:

It is desirable that the voters of the City and County of San Francisco have an early opportunity to vote on the transfer authorized by this act. The earliest and most convenient opportunity for a vote by the people of the City and County of San Francisco on this matter is the forthcoming general election in November of this year. In order that there will be sufficient time available after the effective date of this act to prepare for such a vote on this matter at the forthcoming general election, it is necessary that this act shall go into immediate effect.

SEC. 24. No amendment, modification, or revocation, in whole or in part, of the transfer of lands in trust provided for in this act, whether made pursuant to Sections 9, 18, 19 or 22, or otherwise, shall impair or affect the rights or obligations of

third parties, including the holders of revenue bonds or securities issued by the Harbor Commission of San Francisco and payable out of revenues of the harbor, lessees, lenders for value, holders of contracts conferring the right to the use and occupation of, or the right to conduct operations upon or within, such lands, arising from leases, contracts, or other instruments lawfully entered into prior to the effective date of such amendment, modification, or revocation.

In the event, at the effective date of any such amendment, modification, or revocation, there are in effect any such leases, contracts, or other instruments the state may, at its option exercised by, and evidenced by appropriate action on the part of, the State Lands Commission, succeed to the interest in any such instrument of the City and County of San Francisco; otherwise the interest of the City and County of San Francisco in any such instrument then in effect shall continue during the term or other period of time during which such instrument shall remain in effect; and provided further, that in any event all revenue bonds or securities issued by the Harbor Commission of San Francisco and payable out of revenues of the harbor shall continue to be so payable and secured in all respects as provided in the proceedings for their issuance and the revenues of the harbor shall be pledged to and applied to the payment of such revenue bonds or securities in all respects as though no such amendment, modification, or revocation had taken place.

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limited periods not exceeding 66 years, and the collection and retention of rents and other revenues from such leases, franchises, permits, licenses, and privileges shall be for purposes consistent with the trusts upon which the lands are held by the state and with the requirements of commerce and navigation, or if the Harbor Commission of the City and County of San Francisco determines that any portion of the transferred lands is not required for the foregoing uses described in this section, such lease or leases, franchises, permits, licenses, and privileges, may be for the purposes of such development and use as the commission finds will yield maximum profits to be used by the commission in the furtherance of commerce and navigation. The moneys derived from such lease or leases, franchises, permits, licenses, and privileges shall be used solely for the furtherance of the purposes specified by this act.

SEC. 4. The City and County of San Francisco shall establish a separate harbor trust fund or funds upon the transfer in such manner as may be prescribed by the Department of Finance; the city and county shall deposit in the fund or funds all moneys received directly from or indirectly attributable to facilities on the transferred lands in the harbor. An annual statement of financial condition and operations, to conform with such requirements as the Department of Finance may prescribe, shall be submitted to the Department of Finance each year by the city and county on or before September 30th of each year for the preceding fiscal year.



